

1-5-07

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

In re:	:	CASE NUMBER
	:	
ALFRED JR. LEWIS and	:	03-41970-MGD
REGINA L. SMITH-LEWIS,	:	
	:	
Debtors.	:	CHAPTER 13

**ORDER DENYING PETITION FOR PAYMENT OF UNCLAIMED FUNDS**

This matter is before the Court on the Petition for Payment of Unclaimed Funds ("Petition") filed by Weinstein & Riley, P.S. as attorney-in-fact for JP Morgan Chase Bank, N.A., parent company of Chase Manhattan Mortgage Corp. (Docket No. 33). During the pendency of Debtors Chapter 13 case, the Chapter 13 Trustee issued a check in the amount of \$1,004.67 to Chase Manhattan Mortgage. Because the check was not cashed by Chase Manhattan Mortgage, the Chapter 13 Trustee, pursuant to standard procedures, paid those unclaimed funds to the Clerk of the Bankruptcy Court. Weinstein & Riley, as a funds locator for JP Morgan Chase Bank/Chase Manhattan Mortgage, seeks to recover the unclaimed funds of \$1,004.67 asserting that Chase Manhattan Mortgage did not cash the check because it was sent to an address different than the address listed on the claims register and was never received.

The Court has reviewed the record in the case and has concerns about whether JP Morgan Chase Bank/Chase Manhattan Mortgage is entitled to the \$1,004.67 payment. On October 29, 2004, Americas Servicing Company, servicer for Chase Manhattan Mortgage,<sup>1</sup> filed its Motion for Relief from Stay and Debtors voluntarily dismissed their Chapter 13 case

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<sup>1</sup> The Motion for Relief from Stay indicated that Americas Servicing Company was servicing a mortgage identified by file number CMMT-03-05441-2 and the proof of claim filed by Chase Manhattan Mortgage Corp. bears the same file number. It therefore appears to the Court that Americas Servicing Company was acting on behalf of Chase Manhattan Mortgage Corp. when filing its Motion.

shortly thereafter on November 12, 2004. This brings into question whether the claim of JP Morgan Chase Bank/Chase Manhattan Mortgage was satisfied through a foreclosure sale conducted on the subject real property. Movant has not provided any evidence that the debt related to the unclaimed funds requested is still outstanding and has not been satisfied through foreclosure or other payment or that JP Morgan Chase Bank still holds the claim and has not transferred or assigned the claim to another entity. Accordingly, it is

**ORDERED** that due to its failure to provide a sufficient factual basis in order to allow the Court to grant the relief requested, Movant's Petition for Payment of Unclaimed Funds in the amount of \$1,004.67 is **DENIED**.

**IT IS FURTHER ORDERED and NOTICE IS HEREBY GIVEN** that Movant has thirty (30) days from the entry of this Order to file pleadings with the Court providing evidence that JP Morgan Chase Bank is currently entitled to the funds requested. If Movant does not file any pleading within 30 days, the unclaimed funds totaling \$1,004.67 shall be remitted to Debtors.

The Clerk is directed to mail a copy of this Order to Movant, Debtors, counsel for Debtors, and the Chapter 13 Trustee.

**IT IS SO ORDERED** this the 4<sup>th</sup> day of January, 2007.

  
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MARY GRACE DIEHL  
UNITED STATES BANKRUPTCY JUDGE